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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/008,895 | 12/07/2001 | Alfred Preukschat | | 5243 |
| 7590 | 03/03/2004 | | EXAMINER | |
| Dr. Max Fogiel 61 Ethel Road West Piscataway, NJ 08854 | | | PEZZLO, BENJAMIN A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3683 | |

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/008,895 | PREUKSCHAT ET AL. | |
| | Examiner | Art Unit | |
| | Benjamin A Pezzlo | 3683 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 6 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corradini et al. (US 6467593) in view of Jensen et al., Miller, and Nezu et al.

Corradini et al. discloses a regulated dashpot 1 with shock-absorption force controls including at least one flow-regulating system (see Figs. 14a and 14b) including at least one shock-absorption component for the compression phase and for a decompression phase (see components 12 and 16, respectively), at least one valve assembly (14 and/or 18) with variable flow resistance (see the springs 13 and 17 which allow for variable impedance by a regulating valve (the components 13 and 16 are valves), at least one fixed bypass valve with a non-varying (see Fig. 1b and col. 5 lines 58-67: note that the cross-section of these valves is non-varying in the sense that there is no valve body which moves, i.e., unlike the bypass valves of Figs. 14a and 14b) constricted cross section hydraulically paralleling the flow-regulating system, at least one flow regulating system for the compression phase and at least one flow regulating system for the decompression phase in the form of regulating valves with variable flow constriction, the flow resistance being continuously steplessly variable for providing continuous damping between soft and hard damping, the bypass valve preventing pressure pulses in damping fluid when the regulating valve transfers rapidly from open to close positions corresponding to upward wheel

shocks and sudden wheel accelerations, so that sudden jolts are prevented when shifting between soft and hard damping for comfort in riding in said vehicles (see col. 3 lines 1-16).

Corradini et al do not disclose the valves being electrically variable. However, Corradini et al. do disclose manually variable valves thereby providing some suggesting of an electrically variable valve. Jensen et al., Miller, and Nezu et al. disclose electrically variable valves in a shock absorber setting. It would have been obvious to one of ordinary skill in the art to which the invention pertains at the time the invention was made to have provided the device of Corradini et al. with electrically variable valves according to the teachings of Jensen et al., Miller and/or Nezu et al. in order to allow for automated control of the valves.

Re claim 6, see Figs. 14a and 14b which show the valves located outside the dashpot, see also hydraulic-fluid lines 27.

Response to Arguments

3. Applicant's arguments filed 22 December 2003 have been fully considered but they are not persuasive.

The presence of the slider notwithstanding, note that the bypass cross section of the valve of Corradini et al. is non-varying and fixed. Note however that Corradini et al. fail to disclose a throttle, however, see for example Fig. 7 of Klinkner et al. (US 4685698).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin A Pezzlo whose telephone number is (703) 306-4617. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3683

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Benjamin A Pezzlo
31104*

Benjamin A Pezzlo
Examiner
Art Unit 3683

BAP

March 1, 2004